

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KATRINA BERAN,

Plaintiff,

vs.

VSL NORTH PLATTE COURT, LLC,

Defendant.

Case No. 7:21-cv-5003

**DEFENDANTS' MOTION TO APPROVE
PROPOSED METHOD OF SECURITY
AND TEMPORARILY CONTINUE
STAY OF EXECUTION PENDING
APPROVAL**

COMES NOW Defendant VSL North Platte Court, LLC (“VSL”) and moves the Court to: (1) approve as supersedeas an irrevocable letter of credit drawn in favor of Plaintiff and further staying execution on the judgment pending any appeal VSL might pursue subsequent to the Court’s disposition of impending post-trial motions, or should Plaintiff not pursue an appeal, staying execution until expiration of VSL’s time to file a notice of appeal; (2) extend the stay of execution under Rule 62(a) on the judgment entered in this case pending the Court’s approval of the requested security; and (3) request for expedited consideration.

On June 27, 2023, [Doc. #102], the Court entered judgment in the above captioned matter. Under Fed. R. Civ. P. 62(a), the execution of the judgment and proceedings to enforce the judgment are automatically stayed for 30 days after its entry, unless the court orders otherwise. The automatic stay will expire on July 27, 2023. On July 11, 2023, Plaintiff filed its Motion for Attorney Fees and Expenses in the amount of \$129,057.06.

At VSL’s request, Pinnacle Bank has agreed to issue an irrevocable letter of credit naming Plaintiff Katrina Beran as beneficiary in the amount of \$900,000, upon approval by this Court as supersedeas. Declaration of Brian Stuhr, Exhibit A. The

letter of credit constitutes an irrevocable commitment to pay any final judgment entered in Plaintiff's favor against VSL, as well as any reasonable costs and interest to which Plaintiff might claim she is entitled. VSL has, therefore, made appropriate provision for Plaintiff's security while the Court considers Plaintiff's post-trial motions and during the pendency of any appeal. Therefore, VSL requests the Court authorize VSL to post the proposed irrevocable letter of credit as security capable of staying execution during VSL's post-trial motion practice, and if necessary, during the pendency of any appeal.

WHEREFORE, VSL moves the Court for an order:

- (1) approving VSL's proposed letter of credit to Plaintiff Katrina Beran as supersedeas so that the same may be issued;
- (2) extending the automatic stay of execution pursuant to the Court's power under Rule 62(a) pending the Court's consideration of VSL's request for approval and for seven days after the Court's disposition on the request to allow VSL to fully secure and file the Court sanctioned supersedeas;
- (3) after approving the proposed irrevocable letter of credit as security, staying execution of the judgment pending any appeal VSL may take subsequent to VSL's post-trial motions, or should VSL not pursue an appeal, staying execution until expiration of VSL's time to file a notice of appeal.

Dated this 24th day of July, 2023.

VSL NORTH PLATTE COURT, LLC.,
Defendant

By: s/ Colin J. Bernard
Colin J. Bernard, #24511
MCGILL GOTSDINER WORKMAN
& LEPP, P.C., L.L.O.
11404 W Dodge Road, Suite 500
Omaha, NE 68154
(402) 492-9200
colinbernard@mgwl.com
Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 24, 2023, the above and foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification to counsel of record.

s/ Colin J. Bernard